

BEFORE THE ARKANSAS CEMETERY BOARD

IN THE MATTER OF

CYPRESS MEMORIAL
MEMORIAL GARDENS
PINE BLUFF, ARKANSAS

Order to Cure Deficiencies in the
Permanent Maintenance Trust Fund
Pursuant to
Ark. Code Ann. § 20-17-1016

ORDER NO. C-06-025-06-OR01

ORDER

A meeting of the Arkansas Cemetery Board ("Board") was held on June 7, 2006.

Considered at the meeting was an examination report ("examination") of Cypress Memorial Gardens, Pine Bluff, Arkansas ("licensee"), performed by the Arkansas Securities Department staff.

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FINDINGS OF FACT

1. The licensee owns and operates a perpetual care cemetery at Pine Bluff, Arkansas, within the meaning of the Cemetery Act for Perpetually Maintained Cemeteries, Act 352 of 1977, as amended ("Act"), and is subject to the Act and Board.
2. The licensee is owned and operated by Peaceful Rest, Inc. Peaceful Rest, Inc. is owned and operated by Mr. Dewitt Hill.
3. Arkansas Securities Department examiner Jay Drake performed an examination of the permanent maintenance trust fund ("trust") records for the time period from January 1, 2004 through December 31, 2005.
4. Arkansas Securities Department examiner Jay Drake performed an examination of the maintenance and upkeep of the licensee.
5. The examination reflects a shortage in principal for the trust in the amount of five hundred thirty-six dollars (\$536).

6. The examination reflects the shortage in principal for the trust was perpetuated for a total of six hundred fifty-six (656) days.
7. The examination shows the licensee received twenty-one thousand four hundred seventy-seven dollars (\$21,477) in revenue for the cost of lots sold.
8. Mr. Dewitt Hill claims a liability to the trust in the amount of ninety-six dollars (\$96) was incorrectly included in the examination. This would make the shortage in principal for the trust four hundred forty dollars (\$440).
9. The examination shows that improvements have been made in the maintenance and upkeep of the licensee.

CONCLUSIONS OF LAW

10. Ark. Code Ann. § 20-17-1006 (1) authorizes the Arkansas Cemetery Board to conduct at any time and from time to time such reasonable periodic, special, or other examination of any cemetery or cemetery company, including, but not limited to, an examination of the physical condition or appearance of the cemetery, the financial condition of the company and any trust funds maintained by the company, and such other examinations as the board or secretary deems necessary or appropriate in the public interest.
11. Order number 95-8-C of the Arkansas Cemetery Board requires the licensee to deposit twenty percent (20%) of the gross sales price to the perpetual care trust fund for each paid-in-full burial space sold in the cemetery.
12. Ark. Code Ann. § 20-17-1016 (b)(1) requires the deposit be made by the cemetery company not later than forty-five (45) days after the final payment has been made.

13. Ark. Code Ann. § 20-17-1016 (c)(1) authorizes the Arkansas Cemetery Board to impose an additional contribution to the permanent maintenance fund the sum of ten dollars (\$10.00) per day but in no instance in amounts to exceed a total of five thousand dollars (\$5,000) or the actual cost of the contract property or cemetery lots, whichever is greater, for the period of the failure

OPINION

14. The licensee has failed to make the required deposits into the permanent maintenance trust fund.
15. Subsequent to the meeting, the licensee has filed evidence the examination should reflect a four hundred forty dollar (\$440) shortage in principal of the trust.

ORDER

IT IS THEREFORE ORDERED that the licensee cure the shortage in the trust fund within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that the licensee make an additional contribution to the principal of the trust equal to the amount of the shortage plus one hundred dollars. The additional contribution to the trust shall be deposited within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that the Arkansas Securities Department perform an examination of the maintenance and upkeep of the licensee prior to the regularly scheduled meetings of the Arkansas Cemetery Board for the third and fourth quarters of the current year.

DATED THIS 10th ^{July} ~~JUNE~~ DAY OF 2006.

ARKANSAS CEMETERY BOARD


BETTY FINLEY
Chairperson


MICHAEL B. JOHNSON
Secretary